



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

YA

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/153.621	09/15/98	SMITH	R P-US-TN1444

MMC1/1024

ADAN AYALA
THE BLACK & DECKER CORPORATION
701 E JOFFA ROAD TW199
TOWSON MD 21286

EXAMINER

DINH, T

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 10/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/153,621

Applicant(s)

SMITH, ROGER Q.

Examiner

Tuan T Dinh

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, line 2, it is unclear. Is the battery flexibly connected to the main housing?
or the receptacle assembly

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (U. S. Patent 5,771,305)

As to claims 1 and 6, Davis discloses an audio-equipment as shown in figures 1-9 comprising a housing (12). The housing contains an audio circuitry (column 2, lines 61, 67) that installed within the housing, and having first and second protective bars (figures 1-4, bag compartment including handlebars) connected to the housing (column 4, lines 38, 42, and 50). Davis does not teach the protection bars in form of flexible. However, the relative term is flexibility in particular since virtually anything will flex if

Art Unit: 2841

enough pressure is applied to it. –Fredman v. Harris-Hub Co., Inc. (DC NIII) 163

USPQ 397 (column 2, lines 57-61, column 3, lines 1-11, column 4, lines 52-62).

As to claim 2, Davis discloses an audio equipment as shown in figures 1, 4, 7 further comprising a handle (14) attached to the protective bars (column 3, lines 12-13).

As to claims 3-5, Davis discloses an audio equipment as shown in figures 4 and 8 further comprising a connector assembly (48, 56a) flexibility connecting the protective bar to the housing, and also comprises a flexible gasket (60) (column 2, lines 58-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Rorer (U. S. Patent 4,239,841).

As best understood to claims 15-18, Davis teaches all the limitations of the claimed invention as above, except for showing a receptacle assembly structure for receiving a battery connected to the main housing. Rorer discloses an electronic assembly as shown in figures 1-4 having a receptacle assembly (26) (column 2, lines 25-26) having a receptacle housing. The assembly also includes a flexible gasket (30) making of elastomer that is disposed between the receptacle housing and the main housing and at least one retainer (34) that is disposed on the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit: 2841

modify the electronic equipment of Davis and provide the structure of receptacle assembly for containing the battery as taught by Rorer in order to support the secondary power of housing for electronic device when the electrical power is unplugged. Also the gasket and retainer are used for protecting housing and absorb shocking from the housing to the battery.

As to claims 19-20, Davis discloses an audio equipment which is well known in the art comprising a door for receiving a battery and connected to the housing, also, the door has a spring which is disposed to bias a battery in the receptacle assembly.

Art Unit: 2841

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wells, Villanueva et al, Lenihan et al, Hinojosa disclosed related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 703-306-5856. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3431 for regular communications and 703-308-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4900.

TD
October 23, 2000



Jeffrey Gaffin
Supervisor
October 23, 2000